

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:17-cr-0201-SEB-MJD
)	
DAVID F. MAYS,)	
)	- 01
Defendant.)	

REPORT AND RECOMMENDATION

On September 15, 2020, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on July 20, 2020. Defendant Mays appeared in person with his appointed counsel Joseph Cleary. The government appeared by Peter Blackett, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Angela Smith.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Mays of his rights and provided him with a copy of the petition. Defendant Mays orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Mays admitted violation number 2. [Docket No. 7.] Government orally moved to withdraw the remaining violation, which motion was granted by the Court.
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- 2 **“The defendant shall refrain from any unlawful use of a controlled substance.”**

On June 30, 2020, and July 7, 2020, Mr. Mays submitted drug tests that tested positive for cocaine. Mr. Mays admitted to using cocaine to produce the first positive, but denied any further use, thus denying the positive result on July 7, 2020.

4. The parties stipulated that:

- (a) The highest grade of violation is a Grade B violation.
- (b) Defendant’s criminal history category is III.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 8 to 14 months’ imprisonment.

5. The parties jointly recommended a modification to include residing at a Residential Reentry Center for a period four (4) months, alcohol monitoring, i.e. Soberlink for a period of up to four (4) months, and defendant is not use or possess alcohol.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be modified as follows:

- 1. You shall report to the probation office in the judicial district to which you are released within 72 hours of release from the custody of the Bureau of Prisons. (Supervised Release cases only)
- 2. You shall report to the probation officer in a manner and frequency directed by the court or probation officer.
- 3. You shall permit a probation officer to visit you at a reasonable time at home, or another place where the officer may legitimately enter by right or consent, and shall permit confiscation of any contraband observed in plain view of the probation officer.

4. You shall not knowingly leave the judicial district without the permission of the court or probation officer.
5. You shall answer truthfully the inquiries by the probation officer, subject to your 5th Amendment privilege.
6. You shall not meet, communicate, or otherwise interact with a person you know to be engaged, or planning to be engaged, in criminal activity. You shall report any contact with persons you know to be convicted felons to your probation officer within 72 hours of the contact.
7. You shall reside at a location approved by the probation officer and shall notify the probation officer at least 72 hours prior to any planned change in place or circumstances of residence or employment (including, but not limited to, changes in who lives there, job positions, job responsibilities). When prior notification is not possible, you shall notify the probation officer within 72 hours of the change.
8. You shall not own, possess, or have access to a firearm, ammunition, destructive device or dangerous weapon.
9. You shall notify the probation officer within 72 hours of being arrested, charged, or questioned by a law enforcement officer.
10. You shall maintain lawful full time employment, unless excused by the probation officer for schooling, vocational training, or other reasons that prevent lawful employment.
11. You shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
12. As directed by the probation officer, you shall notify third parties who may be impacted by the nature of the conduct underlying your current or prior offense(s) of conviction and/or shall permit the probation officer to make such notifications and/or confirm your compliance with this requirement.
13. You shall make a good faith effort to follow instructions of the probation officer necessary to ensure compliance with the conditions of supervision.
14. You shall participate in a substance abuse or alcohol treatment program approved by the probation officer and abide by the rules and regulations of that program. The probation officer shall supervise your participation in the program (provider, location, modality, duration, intensity, etc.). The court authorizes the release of the presentence report and available evaluations to the treatment provider, as approved by the probation officer.
15. You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical

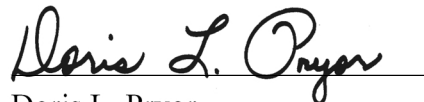
practitioner. You shall follow the prescription instructions regarding frequency and dosage.

16. You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug tests per month. You shall not attempt to obstruct or tamper with the testing methods.
17. You shall not use or possess alcohol.
18. You shall not knowingly purchase, possess, distribute, administer, or otherwise use any psychoactive substances (e.g., synthetic marijuana, bath salts, Spice, glue, etc.) that impair a person's physical or mental functioning, whether or not intended for human consumption.
19. You shall reside in a residential reentry center for a term of 120 days. You shall abide by the rules and regulations of the facility.
20. You shall be monitored by mobile alcohol monitoring, such as Soberlink, for a period of up to 4 months, to commence upon release from the Residential Reentry Center, and shall abide by the technology requirements.
21. You are to have no contact with Christina Bouska.

Defendant reviewed the foregoing conditions and they were reviewed by defendant with his attorney. Defendant, on the record, waived reading of the above-noted conditions of supervised release.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation. Defendant is to be released pending designation by the Federal Bureau of Prisons.

Date: 9/15/2020


Doris L. Pryor
United States Magistrate Judge
Southern District of Indiana

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